



PATENT
ATTY. DOCKET NO. L-F/104H

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Niehoff Art Unit: 3763
Serial No. : 09/307,633 Examiner: J. Maynard
Filed : May 7, 1999
For : SYRINGE WITH INDICIA FOR CONTROLLING PLUNGER DRIVE
(AS AMENDED)

Assistant Commissioner of Patents
Washington, DC 20231

PETITION TO WITHDRAW HOLDING OF ABANDONMENT

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TECHNOLOGY CENTER R3700

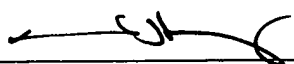
Applicant hereby petitions for withdrawal of the holding of abandonment evidenced by the Notice of Abandonment mailed April 7, 2003. The supporting facts are as follows:

On October 17, 2002, the Board of Appeal rendered a decision affirming the Examiner's final rejection.

On December 16, 2002, Applicant timely filed a request for rehearing under 37 C.F.R. §1.197(b).

On February 24, 2003, the Board acted on Applicant's request for rehearing, issuing a supplemental opinion. The Board's opinion indicated that Applicant's request for rehearing "is granted to the extent of reconsidering our decision, but is denied with respect to making any change thereto."

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid in an envelope addressed to: Assistant Commissioner of Patents, Washington, D.C. 20231 on: April 23, 2003


Thomas W. Humphrey
Reg. No. 34,353

37 C.F.R. §1.304(a)(1) states "The time for filing the notice of appeal to the U.S. Court of Appeals for the Federal Circuit (§1.302) or for commencing a civil action (§1.303) is two months from the date of the decision of the Board of Appeals and Interferences. If a request for rehearing or reconsideration of the decision is filed within the time period provided under §1.197(b), §1.658(b), or §1.979(a), the time for filing an appeal or commencing a civil action shall expire two months after action on the request.

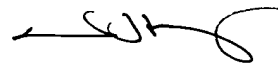
In view of the above, the issuance of a Notice of Abandonment on April 7, 2003 was erroneous, for the reason that the application cannot be held abandoned until the expiration of the time for filing an appeal or commencing a civil action, which time does not expire until two months after the action of the Board on Applicant's request for rehearing, which expires on April 24, 2003.

Applicant is submitting with this petition a request for continued examination under 37 C.F.R. §1.114. Applicant submits that this request is timely filed and that the application has not been abandoned. Applicant requests withdrawal of the holding of abandonment.

Applicant believes that no fee is due for this petition. If, however, a petition fee or any other fee is due,

please apply them to Deposit Account 23-3000. If any petition for extension of time is necessary to accompany this communication, please consider this paper a petition for such an extension of time, and apply the appropriate extension of time fee to Deposit Account 23-3000.

Respectfully submitted,



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